

)Case No.: 09-004
In re the Matter of:)
)
State of New Hampshire Banking)
)Order to Show Cause
Department,)
)
Petitioner,)
)
and)
)
Prime Mortgage Financial Inc (d/b/a)
)
Prime Lending Company, and d/b/a)
)
Partnersfirst Mortgage), and Aris)
)
Pappas,)
)
Respondents)

This Order commences an adjudicative proceeding under the provisions of RSA 397-A and RSA 541-A.

Pursuant to RSA 397-A:17, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue an order to show cause why license revocation and penalties for violations of New Hampshire Banking laws should not be imposed.

Pursuant to RSA 397-A:18, the Department has the authority to issue a complaint setting forth charges whenever the Department is of the opinion that the licensee or person over whom the Department has jurisdiction is violating or has violated any provision of RSA Chapter 397-A, or any rule or order thereunder.

Order - 1

1 rescind such orders as are reasonably necessary to comply with the
2 provisions of the Chapter.

3 Pursuant to RSA 397-A:21, the Commissioner has the authority to
4 suspend, revoke or deny any license and to impose administrative penalties
5 of up to \$2,500.00 for each violation of New Hampshire banking law and
6 rules.

7 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct
8 that is or may be an unfair or deceptive act or practice under RSA 358-A and
9 exempt under RSA 358-A:3,I or that may violate any of the provisions of
10 Titles XXXV and XXXVI and administrative rules adopted thereunder. The
11 Commissioner may hold hearings relative to such conduct and may order
12 restitution for a person or persons adversely affected by such conduct. The
13 Commissioner may utilize all remedies available under the Consumer
14 Protection Act.

15 **NOTICE OF RIGHT TO REQUEST A HEARING**

16 The above named Respondents have the right to request a hearing on
17 this Order to Show Cause, as well as the right to be represented by counsel
18 at each Respondent's own expense. All hearings shall comply with RSA 541-A.
19 Any such request for a hearing shall be in writing, and signed by the
20 Respondent or the duly authorized agent of the above named Respondent, and
21 shall be delivered either by hand or certified mail, return receipt
22 requested, to the Banking Department, State of New Hampshire, 53 Regional
23 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within
24 10 days of the Department's receipt of the request. If the Respondent fails
25 to appear at the hearing after being duly notified, such person shall be

1 deemed in default, and the proceeding may be determined against the Respondent
2 upon consideration of the Order to Show Cause, the allegations of which may be
3 deemed to be true.

4 If any of the above named Respondents fails to request a hearing within
5 30 calendar days of receipt of such order or reach formal settlement with the
6 Department within that time frame, then such person shall likewise be deemed
7 in default, and the orders shall, on the thirty-first day, become permanent,
8 and shall remain in full force and effect until and unless later modified or
9 vacated by the Commissioner, for good cause shown.

10 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

11 The Staff Petition dated January 23, 2009 (a copy of which is attached
12 hereto) is incorporated by reference hereto.

13 **ORDER**

14 WHEREAS, finding it necessary and appropriate and in the public
15 interest, and consistent with the intent and purposes of the New Hampshire
16 banking laws, and

17 WHEREAS, finding that the allegations contained in the Staff Petition,
18 if proved true and correct, form the legal basis of the relief requested,

19 It is hereby ORDERED, that:

- 20 1. Respondent Prime Mortgage Financial Inc (d/b/a Prime Lending
21 Company, and d/b/a Partnersfirst Mortgage) ("Respondent Prime
22 Mortgage") shall show cause why penalties in the amount of
23 \$12,500.00 should not be imposed against it;
- 24 2. Respondent Aris Pappas ("Respondent Pappas") shall show cause
25 why penalties in the amount of \$22,500.00 should not be

1 imposed against him;

2 3. The above named Respondents shall show cause why, in addition
3 to the penalties listed in Paragraphs 1 through 2 above, the
4 \$500.00 examination fee should not be paid to the Department;

5 4. The above named Respondents shall show cause why, in addition
6 to the penalties listed in Paragraphs 1 through 3 above,
7 statutory penalties of \$2,500.00 should not be imposed for
8 failing to file the 2007 annual report;

9 5. The above named Respondents shall show cause why, in addition
10 to the penalties listed in Paragraphs 1 through 4 above, the
11 accrued fine of \$19,250.00 for failing to provide examination
12 materials(and still accruing)should not be paid to the
13 Department;

14 6. Respondents shall be jointly and severally liable for the
15 above amounts alleged in Paragraphs 1 through 5 above;

16 7. The above named Respondents shall show cause why, in addition
17 to the penalties listed in Paragraphs 1 through 6 above,
18 Respondent Prime Mortgage's license should not be revoked.

19 It is hereby further ORDERED that:

20 8. Along with the administrative penalties listed for the above
21 named Respondents, the outstanding sum of \$22,250.00 shall be
22 immediately paid; and
23
24
25

9. Failure to request a hearing within 30 days of the date of receipt or valid delivery of this Order shall result in a default judgment being rendered and administrative penalties imposed upon the defaulting Respondent(s).

SIGNED,

Dated: 01/23/09

/s/
PETER C. HILDRETH
BANK COMMISSIONER

State of New Hampshire Banking Department

In re the Matter of:) Case No.: 09-004
)
)
State of New Hampshire Banking)
) Staff Petition
Department,)
) January 23, 2009
Petitioner,)
)
and)
)
Prime Mortgage Financial Inc (d/b/a)
)
Prime Lending Company, and d/b/a)
)
Partnersfirst Mortgage), and Aris)
)
Pappas,)
)
Respondents)

I. STATEMENT OF ALLEGATIONS

The Staff of the Banking Department, State of New Hampshire (hereinafter "Department") alleges the following facts:

Facts Common on All Counts:

1. Respondent Prime Mortgage Financial Inc (d/b/a Prime Lending Company, and d/b/a Partnersfirst Mortgage) (hereinafter "Respondent Prime Mortgage") was licensed as a Mortgage Banker from at least August 21, 2002 until its license expired on December 31, 2007.
2. Respondent Aris Pappas (hereinafter "Respondent Pappas") was the President of Respondent Prime Mortgage, when licensed by the Department.

Violation of RSA 397-A:12,V Failure to Pay Examination Fee (1 Count):

Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to

Department Inquiries (1 Count):

3. Paragraphs 1 through 2 are hereby realleged as fully set forth herein.

4. The Department conducted an examination of Respondent Prime Mortgage on December 31, 2007, while Respondent Prime Mortgage was still licensed with the Department.

5. On July 22, 2008, the Department mailed the report of examination and invoice for \$500.00 to Respondent Prime Mortgage, via U.S. Certified Mail Return Receipt requested, which Respondents received on July 28, 2008.

6. The above named Respondents failed to respond to the July 22, 2008 correspondence from the Department.

7. The Department, via U.S. mail, mailed a second notice on August 26, 2008 and a third notice on October 9, 2008.

8. The above named Respondents did not respond to any of the three notices for payment of the \$500.00 invoice.

9. To date, the above named Respondents still owe the \$500.00 examination fee for the one day examination.

Violation of RSA 397-A:12,VII Failure to Facilitate Exam (1 Count):

Violation of RSA 397-A:12,III Examinations: Failure to Provide Requested Files (1 Count):

Violation of RSA 397-A:11,II Record Keeping: Failure to Provide Requested

Files (1 Count):

1 Violation of RSA 397-A:13, VI Failure of Officer and Owner to Respond to

2 Department Inquiries (2 Counts):

3 10. Paragraphs 1 through 9 are hereby realleged as fully set forth
4 herein.

5 11. The Department conducted an examination of Respondent Prime
6 Mortgage on December 31, 2007, while Respondent Prime Mortgage
7 was still licensed with the Department.

8 12. On December 10, 2007, the Department sent the notice of
9 examination to Respondent Prime Mortgage via U.S. Certified Mail
10 Return Receipt requested, which Respondents received on December
11 13, 2007.

12 13. The materials requested in the December 10, 2007 notice of
13 examination were due on January 3, 2008.

14 14. The Department did not receive the examination materials requested
15 on or by January 3, 2008.

16 15. On March 3, 2008, the Department sent a second notice of
17 examination to Respondent Prime Mortgage via U.S. Certified Mail
18 Return Receipt requested, which Respondents received on March 13,
19 2008.

20 16. With no response, the Department sent a third notice via U.S. Mail
21 on April 28, 2008.

22 17. To date, the above named Respondents have failed to respond to the
23 notices of examination and failed to provide the examination
24 materials.

25 18. To date, fines have accrued for failing to provide the requested

files. The current fine to date is \$19,250.00 (\$50.00 a day x 368 days) and still accruing.

Violation of RSA 397-A:13,I Failure to File Annual Report (1 Count):

Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to

Department Inquiries (1 Count):

19. Paragraphs 1 through 18 are hereby realleged as fully set forth herein.

20. Respondent Prime Mortgage was licensed in 2007, and thus subject to the filing of a 2007 annual report with the Department.

21. The 2007 annual report was due on or before February 1, 2008.

22. On December 21, 2007, the Department received the notice that Respondents were not going to renew the license and expiration form documents.

23. On February 5, 2008, the Department sent the above named Respondents a reminder letter via U.S. Certified Mail Return Receipt requested that the annual report was due on February 1, 2008, which Respondents received on February 8, 2008.

24. To date, the above named Respondents have failed to respond to the Department's notices.

25. To date, Respondent Prime Mortgage has failed to file the 2007 annual report.

26. To date, the penalty for failing to file an annual report has accrued to the maximum cap of \$2,500.00.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

II. ISSUES OF LAW

The staff of the Department alleges the following issues of law:

1. The Department realleges the above stated facts in Paragraphs 1 through 26 as fully set forth herein.
2. The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage banker or broker activities pursuant to NH RSA 397-A:2 and RSA 397-A:3.
3. RSA 397-A:11,II provides that requested files and business records must be received by the Department within 21 calendar days of request. The licensee will be subject to a \$50.00 a day fine every day after the 21-day period the records are not produced. Respondents currently owe \$19,250.00 (and still accruing). Each of the above named Respondents violated this statute on at least one occasion as alleged above.
4. RSA 397-A:12,III requires licensees to comply with examination requests with or without prior notice. All books, papers, files, related material, and records of assets shall be subject to the Department's examination. Each of the above named Respondents violated this statute on at least one occasion as alleged above.
5. RSA 397-A:12,V provides that the expense of such examination shall be chargeable to and paid by the licensee. Each of the above named Respondents violated this provision on at least one occasion as alleged above. To date, the above named Respondents have failed to pay the \$500.00 examination invoice.
6. RSA 397-A:12,VII provides that every person being examined, and

1 all of the officers, directors, employees, agents, and
2 representatives of such person shall make freely available to the
3 Commissioner or his or her examiners, the accounts, records,
4 documents, files, information, assets, and matters in their
5 possession or control relating to the subject of the examination
6 and shall facilitate the examination. Each of the above named
7 Respondents violated this statute on at least one occasion as
8 alleged above.

9 7. RSA 397-A:13,I provides that a licensee shall file its annual
10 report on or before February 1 each year concerning operations
11 for the preceding year or license period ending December 31.
12 Each of the above named Respondents violated this provision on at
13 least one occasion as alleged above.

14 8. RSA 397-A:13,IV provides that any mortgage banker or mortgage
15 broker failing to file either the annual report or the financial
16 statement required by RSA Chapter 397-A within the time
17 prescribed may be required to pay to the Department a penalty of
18 \$25.00 for each calendar day the annual report or financial
19 statement is overdue, up to a maximum penalty of \$2,500.00 per
20 report or statement. Each of the above named Respondents violated
21 this provision on at least one occasion as alleged above. The
22 above named Respondents failed to file the 2007 annual report,
23 and incurred a penalty of \$2,500.00.

24 9. RSA 397-A:13,VI provides that any officer, owner, manager or agent
25 of any licensee shall reply promptly in writing, or other

1 designated form, to any written inquiry from the Department.
2 Respondent Pappas violated this provision on at least four
3 occasions as alleged above.

4 10. RSA 397-A:17,I provides in part that the Commissioner may by
5 order, upon due notice and opportunity for hearing, assess
6 penalties or deny, suspend, or revoke a license or application if
7 it is in the public interest and the applicant, respondent, or
8 licensee, any partner, officer, member, or director, any person
9 occupying a similar status or performing similar functions, or
10 any person directly or indirectly controlling the applicant,
11 respondent, or licensee: (a) has violated any provision of RSA
12 Chapter 397-A or rules thereunder, or (b) has not met the
13 standards established in RSA Chapter 397-A.

14 11. RSA 397-A:18,I provides that the Department may issue a complaint
15 setting forth charges whenever the Department is of the opinion
16 that the licensee or person over whom the Department has
17 jurisdiction, has violated any provision of RSA 397-A or orders
18 thereunder.

19 12. RSA 397-A:21,IV provides that any person who, either knowingly or
20 negligently, violates any provision of Chapter 397-A, may upon
21 hearing, and in addition to any other penalty provided for by
22 law, be subject to an administrative fine not to exceed
23 \$2,500.00, or both. Each of the acts specified shall constitute
24 a separate violation, and such administrative action or fine may
25 be imposed in addition to any criminal penalties or civil

1 liabilities imposed by New Hampshire Banking laws.

2 13. RSA 397-A:21,V provides that every person who directly or
3 indirectly controls a person liable under this section, every
4 partner, principal executive officer or director of such person,
5 every person occupying a similar status or performing a similar
6 function, every employee of such person who materially aids in the
7 act constituting the violation, and every licensee or person acting
8 as a common law agent who materially aids in the acts constituting
9 the violation, either knowingly or negligently, may, upon notice
10 and opportunity for hearing, and in addition to any other penalty
11 provided for by law, be subject to suspension, revocation, or
12 denial of any registration or license, including the forfeiture of
13 any application fee, or the imposition of an administrative fine
14 not to exceed \$2,500, or both. Each of the acts specified shall
15 constitute a separate violation, and such administrative action or
16 fine may be imposed in addition to any criminal or civil penalties
17 imposed.

18 **III. RELIEF REQUESTED**

19 The staff of the Department requests the Commissioner take the following
20 action:

- 21 1. Find as fact the allegations contained in section I of this Staff
22 Petition;
- 23 2. Make conclusions of law relative to the allegations contained in
24 section II of this Staff Petition;
- 25 3. Pursuant to RSA 397-A:17, order each of the above named

Respondents to show cause why their license should not be revoked;

4. Assess fines and administrative penalties in accordance with RSA 397-A:21, for violations of Chapter 397-A, in the number and amount equal to the violations set forth in section II of this Staff Petition; and

5. Take such other administrative and legal actions as necessary for enforcement of the New Hampshire Banking Laws, the protection of New Hampshire citizens, and to provide other equitable relief.

IV. RIGHT TO AMEND

The Department reserves the right to amend this Staff Petition and to request that the Commissioner take additional administrative action. Nothing herein shall preclude the Department from bringing additional enforcement action under RSA 397-A or the regulations thereunder.

Respectfully submitted by:

/s/
Maryam Torben Desfosses
Hearings Examiner

01/23/09
Date